



**Jammu and Kashmir State Information Commission**

(Constituted under Right to Information Act 2009)

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File No: SIC/J/A/215/2013

Decision No: SIC/J/A/215/2013-509

Title:- Rashu Kanna

V/s

PIO Assistant Commissioner Nazool Jammu

Jammu

03.10.2013

This is a second appeal filed by Shri Rashu Khanna before this Commission on 03.09.2013. To adjudicate the appeal, the Registry of this Commission posted the appeal for hearing. S/Shri Kalyan Singh, Additional D.C, Shri Pawan Kumar A.C Nazool-cum-PIO and Shri Rashu Kanna attended the hearing. Both the parties were heard. The brief facts and grounds of the appeal are as under:-

The appellant filed an RTI application before Addl. Deputy Commissioner PIO Jammu on 11.5.2013 seeking information under the RTI Act, 2009. The then Plo Dr. R.S Sharma transferred this application to Additional Commissioner Nazool vide his letter dated: 15.5.2013. The PIO Nazool did not pass any order on the relevant application. Thus having been denied the information the appellant filed first appeal before FAA on 10.7.2013. FAA reportedly could not attend the Commission being engaged in some law and order matter. The office of the FAA has submitted before this Commission that the FAA had fixed the hearing of the appeal and a report of PIO was also sought for. The Commission has gone through the relevant noting in this regard and it is found that there is no proper order as provided under Section 16 of the State RTI Act 2009. The Act provides a time limit for FAA to decide appeal which is 30 days extendable by further 15 days after properly recording the reasons. The Commission directs the PIO to pass a speaking order directing the PIO to provide the information within 15 days from the receipt of this order and the PIO is also directed to explain why penalty proceedings under Section 17 may not be initiated against him. His reply, if any, must reach the Commission within 15 days from the receipt of this order.

2. The Commission has observed that the PIO i.e Additional D.C has wrongly invoked Section 6 and forwarded the application to his colleague who is also working under the same

public authority. The provisions of Section 6 make it abundantly clear that RTI application is to be transferred to other public authority under Section 6 only in case the public authority is different than the public authority before whose PIO application was made or the subject matter of which is more closely connected with the functions of another public authority. In this case, the Revenue Secretary is the public authority for both the PIOs. The appropriate procedure would have been to invoke section 5 and seek assistance from the other PIO working under the same public authority.

Sd/-

( G.R. Sufi )

J&K State Chief Information Commissioner

Copy to:-

1. First Appellate Authority, Assistant Commissioner, Nazoor, Jammu
2. Public Information Officer, Assistant Commissioner, Nazool, Jammu
3. Shri Rashu Kanna, H.No: 579, Subash Nagar, Jammu
4. Private Secretary to Chief Information Commissioner
5. Guard File.

( G.Q. Bhat )

Registrar

J& K State Information Commission